

1632

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Tsvee LAPIDOT et al
Application No.: 09/744,654
Filed: January 29, 2001
For: HEMATOPIETIC CELL COMPOSITION FOR USE IN...
Confirmation No.: 2645



Art Unit: 1632
Examiner: A. Wehbe
Washington, D.C.
Atty.'s Docket: LAPIDOT=2
Date: October 29, 2002

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OCT 31 2002

TECH CENTER 1600/2900

THE COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Sir:

Transmitted herewith is a [XX] REPLY TO RESTRICTION REQUIREMENT in the above-identified application.

[XX] Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted

[] A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.

[XX] No additional fee is required.

The fee has been calculated as shown below:

	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NO. PREVIOUSLY PAID FOR	(Col. 3) PRESENT EXTRA EQUALS
TOTAL	*	MINUS	** 20	0
INDEP.	*	MINUS	*** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

SMALL ENTITY	
RATE	ADDITIONAL FEE
x 9	\$
x 42	\$
+ 135	\$
ADDITIONAL FEE TOTAL	
\$	

OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE
x 18	\$
x 84	\$
+ 270	\$
TOTAL	
\$	

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.
- *** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

- [] First - \$ 55.00
- [] Second - \$ 200.00
- [] Third - \$ 460.00
- [] Fourth - \$ 720.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

- [] First - \$ 110.00
- [] Second - \$ 400.00
- [] Third - \$ 920.00
- [] Fourth - \$ 1440.00

Month After Time Period Set

[] Less fees (\$) already paid for ___ month(s) extension of time on _____.

[] Please charge my Deposit Account No. 02-4035 in the amount of \$ _____.

[] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$ _____.

[] A check in the amount of \$ _____ is attached (check no.).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

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RZ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: LAPIDOT=2

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REPLY TO RESTRICTION REQUIREMENT

TECH CENTER 1600/2900

Honorable Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants are in receipt of Paper No. 5, mailed October 2, 2002, entirely in the nature of a requirement for restriction.

Applicants have claimed priority from their corresponding application filed in Israel on July 27, 1998. According to the form PCT/DO/EO/903, the PTO received a copy of the priority document from the International Bureau. Accordingly, applicants respectfully request the PTO to acknowledge receipt of applicants' papers filed under \$119.

Restriction has been required among what the PTO indicates are five patentably distinct inventions as outlined

at the middle of page 2 of the Official Action. Applicants hereby respectfully and provisionally elect Group I, presently claims 1-27, 33, 48 and 49, with traverse and without prejudice.

The PTO recognizes that normal U.S. restriction practice does not apply, but instead PCT Rule 13.1 and 13.2 are controlling because the present application is the U.S. national phase of an International application, i.e. unity-of-invention rules apply rather than restriction practice. Looking at the IPER (International Preliminary Examination Report) it can be seen that during the international stage there was no indication of any lack unity-of-invention. All the claims were considered.

Applicants respectfully note that claim 28, the main claim of Group II, depends from and thus incorporates the subject matter of claim 1. Accordingly, Groups I and II share the same or corresponding special technical feature which is recited in claim 1.

Although the main claims of Groups III-V are not dependent from claim 1, they incorporate the subject matter of claim 1. Accordingly, and again, the same or corresponding special technical feature exists in all five groups as recited in claim 1, and the requirement should be withdrawn.

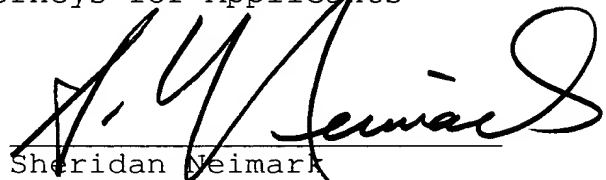
Applicants accordingly respectfully request withdrawal of the requirement and examination of all of the claims on the merits.

Applicants respectfully await the results of a first examination on the merits.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
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